

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 3:24-CV-00128

MARC STRICKER,

Plaintiff,

v.

SARAH SMITH and CAREY SEALY

Defendants.

NOTICE OF REMOVAL

Defendant Sarah Smith and Defendant Carey Sealy (“Smith” or “Sealy” respectively or “Defendants” collectively), provide this Notice of Removal concerning an action filed by Plaintiff Marc Stricker (“Plaintiff”) in the General Court of Justice, Superior Court Division, for Union County, North Carolina. In support of this Notice of Removal, Defendants show the following:

1. On January 5, 2024, Plaintiff filed his Complaint in Union County Superior Court where it was assigned Civil Action No. 24 CVS 41. A copy of the Civil Action Cover Sheet and the Complaint is attached as Exhibit A.
2. The Union County Clerk of Court issued a Civil Summons on the same day. A copy of the Civil Summons is attached as Exhibit B.
3. Smith was served with the Summons and the Complaint on January 26, 2024. A copy of the served Summons is attached as Exhibit C.

4. The Sheriff of Orange County, Florida served Sealy with the Summons and the Complaint on January 23, 2024. A copy of the served Summons is attached as Exhibit D.

5. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after Defendants' receipt of a copy of the initial pleading setting forth the claims for relief upon which Plaintiff's action is based.

6. The United States District Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332; 1441 because it is a civil action where the matter in controversy exceeds \$75,000.00 and is between citizens of different states.

7. As the Summons correctly indicates, Plaintiff is domiciled in Waxhaw, North Carolina while Smith and Sealy are domiciled in Texas and Florida respectively. Ex. B.

8. Therefore, diversity jurisdiction under 28 U.S.C. § 1332 exists because the Parties are citizens of North Carolina, Texas, and Florida. Moreover, “[t]his Court may construe the mailing addresses Plaintiff used for himself and Defendants as allegations about their state citizenship.” *Robinson v. Pardee UNC Healthcare*, 1:20-CV-372-MOC-WCM, 2022 WL 828471, at *3 (W.D.N.C. Mar. 18, 2022).

9. Further, the amount in controversy surpasses the \$75,000.00 requirement of 28 U.S.C. § 1332(a) because Plaintiff's Complaint demands upwards of 5.2 million dollars exclusive of interest and costs. *See* Ex. A, Compl. at 3 (Plaintiff demands \$212,500.00 excluding speculative future earnings).

10. Defendants are providing written notice of the filing of this Notice of Removal to Plaintiff and are also filing a copy of this Notice of Removal with the Union County Clerk of Court pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendants hereby remove this action from the Superior Court of Union County to the United States District Court for the Western District of North Carolina.

This the 2nd day of February, 2024.

/s/ William J. McMahon
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/s/ J. Rodrigo Pocasangre
J. Rodrigo Pocasangre
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2024, I electronically filed the **NOTICE OF REMOVAL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **NONE** and will also serve the Plaintiff with a copy via US Mail, postage prepaid, at the following address:

**Marc Stricker
7503 Yellowhorn Trail
Waxhaw, NC 28173**

/s/ J. Rodrigo Pocasangre
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NC State Bar No. 41530
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